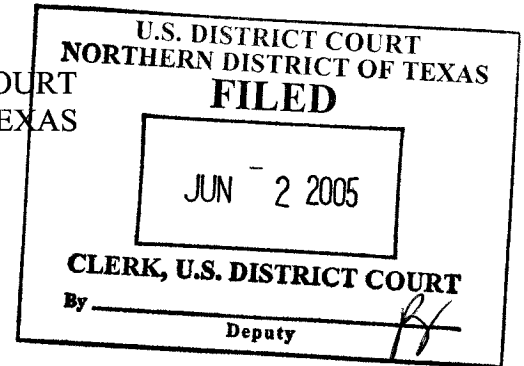


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



HENRY COLEMAN, JR.,

Petitioner,

v.

DOUGLAS DRETKE, Director
Texas Department of Criminal
Justice, Institutional Division,

Respondent.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO.
3:03-CV-1824-P

ORDER

This is a writ of habeas corpus case filed by a state inmate pursuant to 28 U.S.C. § 2254. The case was referred to a United States Magistrate Judge, and the magistrate judge issued his Findings, Conclusions, and Recommendation on April 26, 2005. The magistrate judge found that one of petitioner's claims was procedurally barred due to failure to exhaust and recommended denial of the remaining three claims. Respondent filed objections on May 10, 2005, and petitioner has not filed any objections to the magistrate judge's report.

Respondent objects to the magistrate judge's finding that petitioner's claim that evidence was altered and fabricated in order to revoke his parole was properly exhausted in petitioner's state habeas application. The magistrate judge concluded that petitioner fairly presented his claim of altered and fabricated evidence on pages 12 and 13 of his state habeas application.


Petitioner states on pages 12 and 13 of his state application:

the multiple punishment statute gives no rise to any assumption that the Inst. division has the authority to alter, fabricate, or increase for a single offense or sentence in one proceeding.

This statement is contained in petitioner's discussion of his double jeopardy claim. On page 14 of his state application, petitioner states that the Institutional Division is "enhancing and fabricating said sentence illegally." In his federal writ, petitioner uses almost the exact language and asserts a violation of the Double Jeopardy Clause. Construing petitioner's pro se petition liberally, the court concludes that petitioner is not raising a claim that was not raised in his state habeas application. Respondent's objections are overruled.

After reviewing all relevant matters of record in this case, the court is of the opinion that the Findings and Conclusions of the magistrate judge are correct and they are adopted as the Findings and Conclusions of this court.

Signed this 2nd day of June 2005.



Jorge A. Solis
United States District Judge